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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,455	11/29/2001	David Logan Murray	05015.0209U3	5328

7590 07/30/2003

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EXAMINER

MOORE, MARGARET G

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,455

Applicant(s)

MURRAY ET AL.

Examiner

Margaret G. Moore

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 to 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1712

1. For the record the Examiner notes that reference A82 cited in PTO-1449 was not considered by the Examiner because it was not in the English language and no concise English language explanation or abstract was provided.
2. For reasons consistent with those given by applicants in the remarks filed March 3, 2003, the instant claims are neither taught nor suggested by the prior art. In view of this, the following new grounds of rejection has been made.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as anticipated by Canadian patent 2,019,716, herein Pyrlik.

Pyrlik teaches a dispersion of polysiloxanes in an outer phase consisting of a polyol and water. See for instance page 3 through page 4. Particularly note Example 1. The “stabilizer” used in this example is in fact a siloxane/polyoxypropylene surfactant. The outer phase consists of a diol and the dispersed silicone particles have diameters that meet that claimed. Note Examples 3 and 7 which use diols meeting that in claim 2.
6. Claims 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pyrlik. Pyrlik teaches on page 9 that up to 20% by weight of additives such as a dispers-

Art Unit: 1712

ant can be added. Page 12 teaches that this dispersant is preferably water. Thus one having ordinary skill in the art would have found the presence of water in amounts meeting that claimed to have been an obvious component in the emulsions of Pyrlik.

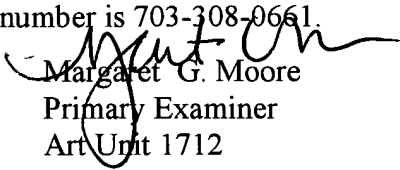
With regards to the particular surfactants of claim 5, note the teachings on page 13 which suggest the addition of anionic, cationic or non-ionic emulsifiers known to be used in silicon emulsions. The Examiner takes Official Notice that the surfactants claimed are conventional surfactants for the production of silicon emulsions and as such would have been obvious to the skilled artisan in view of the disclosure on the bottom of page 13. In this manner these claims are rendered obvious.

7. Kanga et al. teach various emulsion that are water in oil or oil in water in which the water phase contains a diol, but the reference is silent as to the particle size of the silicone particles. This is cited as being of general interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 703-308-4334. The examiner can normally be reached on Mon., Wed., Thurs. and Friday, 10am to 4pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9311 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
July 28, 2003